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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,619	10/14/2003	PERRY GARTNER	P03-248-GAR	2618

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EXAMINER

CHIN, RANDALL E

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/605,619

Applicant(s)

GARTNER, PERRY

Examiner

Randall Chin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,4-7,9 and 10 is/are rejected.
- 7) ☒ Claim(s) 2 and 3 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. Claim 8 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 13 May 2005.
2. Applicant's election of the species of Figs. 1-2, claims 1-7, 9 and 10 in the reply filed on 13 May 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Information Disclosure Statement

3. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the

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description: Pad painter **10** as recited in paragraph [0018] is not shown. Rubber handle **35** as recited in paragraph [0020] is also not shown.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The disclosure is objected to because of the following informalities:

Paragraph [0019], line 6, "cutaway portion 27" should read –cut-away section 17-- for consistency. See lines 1-2 of paragraph [0019].

Paragraph [0021], lines 5-6, it appears "handle 34" should read –handle 26— instead.

Applicant should use consistent terminology with respect to "circular threaded inner portion 22" (paragraph [0020]) and "recessed portion 22" (paragraph [0022]).

Appropriate correction is required.

Claim Objections

6. Claims 1, 3, 5-7 and 10 are objected to because of the following informalities:

Claim 1, line 7, it is not exactly clear as to what constitutes the “threaded gripping surface”. Applicant should use consistent terminology between the specification and claims. It appears Applicant is intending to recite that this element is the “enlarged elongated portion 34” (Fig. 1), however, the specification does not explicitly use phrase “threaded gripping surface”, although shown.

Claim 3, line 5, “cutaway portion” should read –cutaway section—for consistency with claim 2, line 5.

Claim 5, line 3 and claim 7, line 3, it is not exactly what constitutes the “outer elongated gripping portion”. Again, Applicant should use consistent terminology between the specification and claims.

Claim 6, line 3, “the threaded portion” lacks antecedent basis. On lines 2-3, “the curved portion” lacks antecedent basis.

Claim 7, line 3, “the second handle end” lacks antecedent basis.

Claim 10, line 2, after “upwardly”, insert –projecting—for consistency with claim 1, line 4.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maupin '239.

Maupin '239 discloses a tool in Figs. 1 and 2 comprising, a pad 16 having an absorbing portion (since it's porous and is considered a scrubbing layer as recited in col. 4, lines 4-10) comprising a first side and a second side having an elongated coupling surface 16b, means defined by base 10 "mounted" to the coupling surface having an upwardly projecting portion which can be extension 14 including a recessed socket 26 therein, a handle portion 22 having a ball 28 at one end to engage the socket and an elongated intermediate portion (which can really be any section of wand above ball 28 in Fig. 2), and mounting means defined by nut 32 and screw 38 securing the ball within the socket to permit rotation of the pad through 360 degrees and permitting the pad to be locked in position (col. 4, lines 65-68). As well as claim 1 is understood, Maupin '239 teaches all of the recited subject matter with the exception of the handle portion having a threaded gripping surface at the other end. The patent to Warrell '250 teaches in Fig. 2 a lateral pivot 26 which can serve as a "handle portion" wherein the handle portion has a threaded gripping surface at the other end. It would have been obvious to one of ordinary skill in the art to have modified Maupin's handle portion such that it has a threaded gripping surface at the other end as taught by Warrell '250 in order to more securely connect the handle portion to another element. In any case, it

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should be noted that Maupin's handle portion 22 is connected to hose 24 (Fig. 1) by a screw connection which can be considered a "threaded gripping surface."

As for claim 1 reciting a "painting tool" in the preamble as well as a "paint" absorbing portion on line 2, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963).

As for claim 4, the ball 28 comprises a ball integrally mounted to the handle portion 22 as can be seen in Fig. 2.

As for claim 10, the upwardly projecting portion 14 includes a threaded exterior 30 and the mounting means 32 includes internal threads to mesh therewith (col. 4, lines 48-51).

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maupin '239 in view of Warrell '250 as applied to claims 1 and 4 above, and further in view of Rodgers '577.

Rodgers '577 discloses a ball 19 with a plurality of spaced slots (Figs. 1 and 2; col. 3, lines 44-48). It would have been obvious to one of ordinary skill to have provided the modified Maupin '239 device with a ball that has a plurality of spaced slots as

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suggested by Rodgers for the purpose of enabling the ball to be more yieldingly associated with the socket.

10. Claims 1, 4-6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belsky '774 in view of Warrell '250.

Belsky '774 discloses a tool comprising, a pad 25 having an absorbing portion (col. 2, lines 6-7) comprising a first side and a second side having an elongated coupling surface 32, means (Fig. 5) "mounted" to the coupling surface having an upwardly projecting portion which can be extension including a recessed socket 34 therein, a handle portion having a ball 33 at one end to engage the socket and an elongated intermediate portion (best seen in Fig. 4), and mounting means defined by ball clamping nut 35 (Fig. 5) securing the ball within the socket to permit rotation of the pad through 360 degrees and permitting the pad to be locked in position (col. 2, lines 43-49). As well as claim 1 is understood, Belsky '774 teaches all of the recited subject matter with the exception of the handle portion having a threaded gripping surface at the other end (Fig. 4). The patent to Warrell '250 teaches in Fig. 2 a lateral pivot 26 which can serve as a "handle portion" wherein the handle portion has a threaded gripping surface at the other end. It would have been obvious to one of ordinary skill in the art to have modified Belsky's handle portion such that it has a threaded gripping surface at the other end as taught by Warrell '250 in order to more securely connect the handle portion to another element.

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As for claim 1 reciting a "painting tool" in the preamble as well as a "paint" absorbing portion on line 2, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963).

As for claim 4, the ball 33 comprises a ball integrally mounted (at least in a final stage) to the handle portion.

As well as claim 5 is understood, the intermediate handle portion includes one end having a portion integrally molded (at least in a final stage) to the ball, a curved portion (not explicitly labeled but shown in Fig. 4) attached thereto and an outer elongated gripping portion which can be handle 15'.

As for claim 10, the upwardly projecting portion includes a threaded exterior and the mounting means 35 includes internal threads to mesh therewith (the threads not explicitly labeled by Belsky '774 but still shown in Fig. 5). Claim 6 is similarly rejected as claim 10. Provision of a washer is old and well known to avoid simple wear and tear and merely involves routine skill in the art.

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11. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Belsky '774 in view of Warrell '250 as applied to claims 1 and 5 above, and further in view of Laymon '222.

Laymon '222 teaches a contoured rubber grip 29 mounted over a handle 24. it would have been obvious to one of ordinary skill to have provided the modified Belsky device with a contoured rubber grip mounted over a handle as taught by Laymon '222 for rendering the handle more comfortable and easier to manipulate during use.

Provision of a threaded recess at a second end is obvious to provide for in order to permit an extension handle to be threadably connected thereto in order to extend the device's reach. Again, note the objection to claim 7 above rendering the claim scope unclear.

Allowable Subject Matter

12. Claims 2-3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Locklear, Warden, Wheeler, Bailey, Saltzstein, Downer, Bereza, and Lin are relevant to various mop arrangements and ball and socket configurations.

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14. Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Randall Chin whose telephone number is (571) 272-1270. The Examiner can normally be reached on Monday through Thursday and every other Friday.

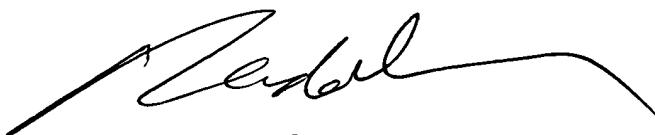
If attempts to reach the Examiner are unsuccessful, the Examiner's supervisor, John Kim, can be reached at (571) 272-1142. The number for Technology Center 1700 is (571) 272-1700.

The central fax number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



R. Chin



Randall Chin
Primary Examiner
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